

In re Appln. of VERMEERSCH et al.  
Application No. 10/811,469

### REMARKS

Reconsideration of the referenced application is respectfully requested in view of the foregoing amendments and the following remarks.

#### Status of the Application

Claims 1 and 3-11 are currently pending in the application. Claims 1, 10 and 11 are amended to more properly describe the subject matter applicants consider as their invention, and claim 2 is canceled. As the amendments are supported by the application as originally filed (*see, e.g., page 6*), no new matter has been introduced into the application by way of these amendments.

#### Summary of the Final Office Action

The final Office Action dated April 19, 2005, rejects claims 1-7, 10 and 11 as obvious over EP 0 950 516 A1 to Verschueren et al. ("Verschueren"). Claims 8 and 9 are rejected on this same basis, in further view of admitted prior art.

Summarizing, the Office Action notes that Verschueren discloses all of the claim limitations, including the particle size as claimed. Accordingly, the Office Action concludes that a *prima facie* case of obviousness has been made out which case, however, may be overcome by a showing of unexpected results.

More specifically, the Office Action advises that Verschueren discloses a particle size range of 0.3 to 50  $\mu\text{m}$ , while the claims require a particle size overlapping this range. The Office Action specifically notes that applicants have not shown any criticality associated with the lower side of the (previously) claimed range (i.e., 0.6  $\mu\text{m}$  to 15  $\mu\text{m}$ ).

#### Discussion

Applicants submit that the data set forth in the specification does indeed establish unexpected results associated with the claimed particle size range, and that the claims as amended are allowable over Verschueren.

The data set forth in the examples of Table 1 of the specification demonstrates the aforesaid criticality. For example, in the Table, 0.5  $\mu\text{m}$  particles (comparative example) provide a relatively unacceptable result (i.e., a rating of 4), while the particles within the claimed range (e.g., 2  $\mu\text{m}$ ) show an unexpectedly superior result (i.e., a rating of 1). Data

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supporting this unexpectedly superior result is also provided in that same Table for the other relatively larger particle sizes within the claimed range, e.g., 3  $\mu\text{m}$ , 4  $\mu\text{m}$ , 4.5  $\mu\text{m}$  and 6  $\mu\text{m}$ .

Applicants have demonstrated the criticality of the claimed subject matter, including the only criticality said in the Office Action to be lacking (e.g., criticality on the lower side of the range of 0.6  $\mu\text{m}$  to 15  $\mu\text{m}$ ). The results using particles having a size below 1  $\mu\text{m}$  and above 7  $\mu\text{m}$  are unexpectedly poor relative to results obtained using particles within the claimed range. Applicants, therefore, respectfully request that the rejection of claims 1 and 3-11 be withdrawn.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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